

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

KENNETH JAMES “KJ” DURHAM,	§	
INDIVIDUALLY AND A/N/F OF	§	
L.E.D., AN INJURED MINOR,	§	
BRITTNE DURHAM,	§	
ESTHER LEE MCFALL,	§	CIVIL ACTION NO. 2:19-cv-00076
AMIE DIANE RONK, AND	§	
ANDREW LEMON	§	
	§	
V.	§	
	§	
ALESANDRO TRUCKING CO.,	§	
SANDRA LEAL D/B/A	§	
ALESANDRO TRUCKING, AND	§	JURY DEMANDED
JOSE LUIS TORRES-GONZALEZ	§	

PLAINTIFFS’ ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE NELVA GONZALES RAMOS:

Plaintiffs, **KENNETH JAMES “KJ” DURHAM, INDIVIDUALLY AND A/N/F OF L.E.D., A MINOR, BRITTNE DURHAM, ESTHER LEE MCFALL, AMIE DIANE RONK, and ANDREW LEMON** (collectively referred to as “**THE DURHAM FAMILY**”), file this **ORIGINAL COMPLAINT**, and would respectively show unto the Court the following:

I.

NATURE OF SUIT

1.01 This suit arises out of a trucking company and driver’s negligent operation of a tractor-trailer rig, which initiated a sequence of events that lead to a head on collision, resulting in two deaths and multiple injuries.

1.02 **THE DURHAM FAMILY** (except the minor, **L.E.D.** and **BRITTNE**) brings this case pursuant to §71.004, *et seq.* of the TEXAS CIVIL PRACTICE AND REMEDIES CODE, commonly referred to as the TEXAS WRONGFUL DEATH ACT.

1.03 **KENNETH JAMES “KJ” DURHAM, Individually and a/n/f of L.E.D., a minor and BRITTNE DURHAM** bring this case for their respective injuries.

II.

PARTIES

2.01 Plaintiffs are all residents of Texas.

2.02 Defendant, **ALESANDRO TRUCKING CO. (“ALESANDRO”)**, is believed to be a foreign business entity. **ALESANDRO** is sued in whatever capacity in which it exists, and may be served by and through its Registered Agent or its counsel.

2.03 Defendant, **SANDRA LEAL d/b/a ALESANDRO TRUCKING (“LEAL”)**, is not a resident of the State of Texas, but she may be served in person or through her counsel.

2.04 Defendant, **JOSE LUIS TORRES-GONZALEZ (“TORRES-GONZALEZ”)**, is a citizen of Mexico, and may be served in person or his counsel.

2.05 **ALESANDRO, LEAL and TORRES-GONZALEZ** are collectively referred to as the **“TRACTOR-TRAILER DEFENDANTS”**.

2.06 Requests for Waiver of Summons will be sent to counsel for the **TRACTOR-TRAILER DEFENDANTS**.

2.07 There is complete diversity of citizenship pursuant to 28 USC §1332.

III.

FACTS

3.01 **TORRES-GONZALEZ** was hauling a load of caliche on February 18, 2019. As he traveled south on FM 359 (direction of travel shown by red arrow below), just west of Tynan, San Patricio County, Texas, he dumped caliche on the highway, which initiated a collision sequence that resulted in a collision between a Ram pickup and a Jeep Wrangler in which some of **THE DURHAM FAMILY** members were riding.



CALICHE ON FM 359 (LOOKING NORTH/EAST)

3.02 **KENNETH PIERSON DURHAM** (“**KENNY**”) was driving the Jeep. His adult son, **KENNETH JAMES “KJ” DURHAM** (“**KJ**”) was a right, front seat passenger. **KJ**’s wife, **BRITTNE** was in the left, rear seat, and their 15-month old child, **L.E.D.**, was in a child safety seat in the center, rear seat. **KENNY**’s wife of over 35 years, **RHONDA** was a right, rear seat passenger.

3.03 **KENNY** and **RHONDA** were killed. **KJ, BRITTNE** and **L.E.D.** were injured to varying degrees.



DURHAM JEEP



RAM PICKUP

IV.

WRONGFUL DEATH CLAIMANTS

4.01 **ESTHER, ANDREW, KJ** and **AMIE** are surviving children of **RHONDA**.

4.02 **KJ** and **AMIE** are surviving children of **KENNY**.

V.

LIABILITY

5.01 The **TRACTOR-TRAILER DEFENDANTS** are directly or vicariously liable and accountable for the negligent operation of a tractor-trailer rig, which negligence was a proximate cause of the collision in question.

VI.

GROSS NEGLIGENCE

6.01 The **TRACTOR-TRAILER DEFENDANTS** are liable and accountable for their individual or collective gross negligence pursuant to Texas law by virtue of the reckless operation of a tractor-trailer rig in wanton disregard of the rights, safety and welfare of the traveling public, including members of **THE DURHAM FAMILY**.

VII.

ACTUAL DAMAGES

7.01 **THE DURHAM FAMILY** (except the minor, **L.E.D.** and **BRITTNE**) seek compensation for all elements of damage allowed pursuant to the TEXAS WRONGFUL DEATH ACT.

7.02 **KJ, Individually and a/n/f of L.E.D., a minor and BRITTNE** seek the reasonable value of **medical care**, both past (paid/incurred) and future; **lost wages and earning capacity**, both past and future; **physical pain and mental anguish**, both past and future; **physical disfigurement**, both past and future; and **physical impairment**, both past and future.

Actual damages are within the jurisdictional limits of this Court.

VIII.

EXEMPLARY DAMAGES

THE DURHAM FAMILY seeks an award of exemplary damages for the **TRACTOR-TRAILER DEFENDANTS'** gross negligence.

IX.

JURY DEMAND

THE DURHAM FAMILY respectfully demands a jury.

X.

PRE-JUDGMENT AND POST JUDGMENT INTEREST

THE DURHAM FAMILY seeks pre-judgment and post-judgment interest.

WHEREFORE, PREMISES CONSIDERED, THE DURHAM FAMILY prays the **TRACTOR-TRAILER DEFENDANTS** be Cited and required to Answer and appear herein, and that upon a Trial on the merits, Judgment be entered in favor of **THE DURHAM FAMILY**, and against the **TRACTOR-TRAILER DEFENDANTS**.

Judgment should include actual damages, pre-judgment and post-judgment interest, and taxable costs, jointly and severally, and an award of exemplary damages as appropriate.

THE DURHAM FAMILY further prays for any and all further relief, both general and special, at law or in equity, to which they may show themselves justly entitled.

Respectfully submitted,

THE WEST LAW FIRM

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